

PROCEEDINGS IN CHAMBERS

DATE

3 April 1947 - Thursday

Cmdr. Cole

Thursday, 3 April 1947

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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Chambers of the Tribunal  
War Ministry Building  
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

On

Defense witnesses, namely, those employed by  
or under the jurisdiction of the Foreign Office:  
Lord Hankey, Sir George Sanson, Sir Robert  
Craigie.

Before:

HONORABLE SIR WILLIAM WEBB,  
President of the Tribunal and  
Member from the Commonwealth  
of Australia.

Reported by:

Daphne Spratt  
Lorraine Yelden  
Official Court Reporters  
IMTFE

Appearances:

For the Prosecution Section:

Mr. A. S. Comyns Carr  
Mr. Frank S. Tavenner, Jr.  
Mr. S. Horwitz

For the Defense Section:

Mr. George A. Furness, Counsel for the  
Accused SHIGEMITSU, Mamoru.

For the Office of the General Secretary, IITFE

Mr. C. A. Nantz, Clerk of the Court.

The proceeding was begun at 0900.

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THE PRESIDENT: I understand, Mr. Furness, that you want to see me with members of the prosecution present.

MR. FURNESS: Yes, sir. The matter is this. When I went to England I found that people who are employees of or under the jurisdiction of the Foreign Office are not permitted to give statements unless request was made on the order of the Court. They said that one of the reasons for that was that the prosecution should have the right to cross-examine. There are other reasons but they are not important.

I saw three men who are under the Foreign Office: Lord Hankey, Sir George Sanson, and Sir Robert Craigie. In Lord Hankey's case he wrote me a letter to which was attached a statement. The letter says:

"I enclose a statement of the evidence which I am prepared to give to the Tokyo Court about Mr. Mamoru SWIGEMITSU if officially asked by the Court to do so. In addition I am prepared to answer interrogatories on the subject.

"I have sent copies of the statement to Mr. Denning of the Foreign Office, with a suggestion

that they might, with advantage, send a copy to His Majesty's Ambassador at Tokyo in case the Court should require it.

"Very sincerely yours

"Hankey"

I have inquired from the Embassy and they state this statement has not been sent out. I have the original and have had a photostatic copy made.

What I propose to do in his case is to handle it the same way as if he were a witness appearing in court; in other words, to ask him after a preliminary qualifying question whether his statement is true and whether he swears to it, and then merely produce the statement. Then the cross-interrogatories which the prosecution would file would constitute cross-examination.

I am prepared to show this statement to you and to the prosecution. Shall I do that now?

THE PRESIDENT: I have not read them. I have seen these things.

MR. COMYNS CARR: That seems to me to be quite a reasonable way of dealing with it in this case. I have not had a chance -- I did receive a communication from the Foreign Office while Major Furness was in England in which they said that they were taking the

stand that any evidence they gave they would prefer to give by interrogatories and I have been expecting some such application to be made before long.

MR. FURNESS: They also told me -- I do not know if they told you -- that it could be handled this way; in other words, one interrogatory asking whether this was his statement.

MR. COMYNS CARR: In his particular case, yes.

MR. FURNESS: He is under the Foreign Office because he is on the Board of Directors which runs the Suez Canal.

MR. COMYNS CARR: I do not want to detain you while I read this now.

THE PRESIDENT: You are satisfied with the course outlined by Major Furness?

MR. COMYNS CARR: I may question the materiality but I have no objection to its being handled the way the defense suggests.

MR. FURNESS: With regard to the others, I obtained from Sir George Sanson, who is attached to the British Embassy in Washington, a statement of what he would say. He typed it -- he dictated it himself. Under the rulings of the Court, some of which were made after I left Tokyo, I am not sure that the Court would

permit it to be introduced; therefore, I propose in his case and in the case of Sir Robert Craigie, to submit a set of interrogatories which will bring out evidence which I think the Court will admit. Their original statements to me contained mixed opinion of facts. I am sure that Mr. Comyns Carr would object.

THE PRESIDENT: We will have to have facts, not opinion.

MR. FURNESS: But I will do whatever the Court wants to be done. The same applies to Sir Robert Craigie.

THE PRESIDENT: What phase is he on?

MR. FURNESS: He is on the individual phase.

I would like to say that I would be very happy and much prefer to have these men brought to Tokyo to testify on the stand and submit to ordinary cross-examination. Whether the Court would do that where I have obtained statements, I don't know.

THE PRESIDENT: It depends on the answers to interrogatories, whether the Court would like them to come here and if the matter is important enough.

MR. FURNESS: Lord Hankey says if he can come it would help Mr. SHIGEMITSU, or if it would help the Court. There are many others that do not fall within this category from whom I have obtained statements but

who are not under the Foreign Office and therefore felt free to give such statements. I would prefer to have them come to Tokyo, of course, and testify because I feel it would bear more weight. I don't know whether to file an application on that or not.

MR. COMYNS CARR: Of course, it would be extremely difficult for most of them to come to Tokyo. They have a long way to come. I don't know who they are but most people are very busy at the present time with urgent affairs there.

THE PRESIDENT: We would not bring them unless we thought what they would say would be so important that they should appear in person.

MR. BURNES: I think they have transportation.

MR. COMYNS CARR: No doubt they could in the course of time get the transportation. It is a matter of their time and their health to be considered.

MR. BURNES: I think most people would like to get out of England just at the present time.

MR. COMYNS CARR: There may be something in that.

In regard to the other people you mentioned, you will draft the interrogatories and serve them?

MR. BURNES: Yes.



MR. COMYNS CARR: And the Court will settle it if there is any dispute about it.

MR. FURNESS: If there is any better way to handle it, I would be glad to follow the Court's order.

MR. COMYNS CARR: I think that is best.

(Whereupon, at 0910, the proceeding was concluded.)

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